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UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

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WENDY EISERMANN, As Mother and Natural	:	
Guardian of J.S., and WENDY EISERMANN,	:	
Individually,	:	
	:	08 Civ. 3374 (DLC) (HBP)
Plaintiffs,	:	
	:	ECF CASE
-against-	:	
	:	
DAVID WALKER, M.D., THE DUTCHESS	:	<b><u>NOTICE OF MOTION</u></b>
MEDICAL PRACTICE, P.C., ROBERT	:	
DWECK, M.D., and HUDSON RIVER	:	
HEALTHCARE CENTERS,	:	
	:	
Defendants.	:	
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PLEASE TAKE NOTICE that, upon the accompanying (1) Memorandum of Law in Support of Motion to Substitute the United States for Defendants David Walker, M.D., Robert Dweck, M.D., and Hudson River HealthCare, Inc.,<sup>1</sup> and to Dismiss the Complaint as Against the United States, (2) Declaration of Meredith Torres, dated March 7, 2008, and (3) Declaration of Joseph N. Cordaro, dated April 11, 2008, Defendants David Walker, M.D., Robert Dweck, M.D.,

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<sup>1</sup> Hudson River HealthCare, Inc., is incorrectly named in the caption of this case. The correct name is used in this Notice of Motion and in the supporting papers on this motion.

and Hudson River HealthCare, Inc. (collectively, the “Federal Defendants”), by their attorney, Michael J. Garcia, United States Attorney for the Southern District of New York, hereby move this Court for an order substituting the United States of America (the “United States”) for the Federal Defendants, dismissing the Complaint against the Federal Defendants with prejudice, and dismissing the Complaint against the United States for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure.

Dated: New York, New York  
April 11, 2008

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Attorney for the Federal Defendants

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